

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED
JAN 24 2023 *aj*

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL VERDUZCO,

CASE No. 4:19-CV-01440-JSW

PLAINTIFF

vs.

MOT. AND NOTICE OF MOT. TO APPEAL PER THE COURTS JAN. 13, 2023

MICKEY PRICE, et. AL.

ORDER. PL. WAS DENIED SUMMARY JUDGEMENT APPEAL FORMS BUT

DEFENDANT(S)

WAS DIRECTED TO FILE NOTICE OF APPEAL ECF. 190. **PL. IS MENTALLY**

ILL AND NEEDS HELP PLEASE. THIS NOTICE OF APPEAL IS PER THE

COURTS ORDER IN ECF. 190 JAN. 13, 2023.

JUDGE: HON. JEFFERY S. WHITE

NC
ARGUMENT I

PL. WAS DENIED APPEAL FORMS FOR 9TH CIR. REVIEW BUT DIRECTED ON JAN. 13, 2023 TO FILE A NOTICE OF APPEAL

ECF. 190. PL. WANTS TO APPEAL ECF Nos. 75, 183 AND ALL OBJECTIONS BY PL. TO THE 9TH CIRCUIT PL. IS MENTALLY

ILL PLEASE HELP

"COURTS MUST, WHEN POSSIBLE, INTERPRET EACH WORD OF A LAW, SO AS TO GIVE IT MEANINGFUL EFFECT." SILVEIRA V. LOCKER, 312 F.3d.

1083 (9TH CIR. 2002). "THE LIBERAL CONSTRUCTION RULE, RELIEVES A PRO SE LITIGANT FROM STRICT APPLICATION OF PROCEDURAL

RULES AND DEMANDS THAT A COURT NOT HOLD MISSING OR INACCURATE LEGAL TERMINOLOGY OR MUDDLED DRAFTSMANSHIP AGAINST

THEM"; BLAIDSDELL V. FRAPPIEA, 729 F.3d. 1237, 1241 (9TH CIR. 2013). "THERE IS AN OBLIGATION WHERE THE PETITIONER IS

PRO SE, PARTICULARLY IN CIVIL RIGHT CASES, TO CONSTRUCT THE PLEADINGS LIBERALLY AND TO AFFORD THE PETITIONER THE BENEFIT OF

ANY DOUBT", BYRD V. PHOENIX POLICE DEPT., 885 F.3d. 639, 642 (9TH CIR. 2018).

PLAINTIFF IS A PATIENT ADMITTED IN A MENTAL HEALTH FACILITY AT THE (PIP) LEVEL OF MENTAL HEALTH CARE. (PIP) IS STRUCTURED

TO RESTORE PATIENTS TO A STABLE RANGE SO THEY CAN FUNCTION OUTSIDE A (PIP) SETTING WHICH PLAINTIFF IS INCAPABLE OF

DOING DUE TO SEVERE PSYCHOLOGICAL AND PHYSICAL TRAUMA. PLAINTIFF HAS BEEN A PATIENT ADMITTED IN (PIP) 3 1/2 YEARS.

"JUST AS A SERIOUS MEDICAL NEED MAY EXIST FOR A PHYSICAL CONDITION, SO MAY A SERIOUS NEED MAY EXIST FOR PSYCHOLOGICAL

OR PSYCHIATRIC TREATMENT", DOMINO V. TEXAS DEPT. OF CRIMINAL JUST, 239 F.3d. 702 (5TH CIR. 2001). PATIENTS IN (PIP) ARE

1 LEGALLY DEFINED AS DISABLED FOR MENTAL HEALTH LEVEL OF CARE, CAL. COD. REG. TIT. 15 § 3486(b)(13). "STATE REGULATIONS,
 2 INCLUDING PRISON REGULATIONS HAVE THE FORCE OF LAW", MADRID V. COMES, 889 F. SUPP. 1146, 1127 AT P. 219 (N.D. CAL. 1995).
 3 "HOLDING THAT BEFORE A PRISONER MAY BE TRANSFERRED TO A MENTAL HEALTH FACILITY, IT MUST BE SHOWN THAT HE SUFFERS FROM
 4 A MENTAL DISEASE THAT REQUIRES CARE AND TREATMENT", U.S. EX REL SCHUSTER V. HEROLD, 410 F. 2d. 1070, 1084 (2nd CIR. 1969).
 5 PLAINTIFF HAS SUFFERED TO DEPRESSION AND SUICIDE IDEATION SINCE ADMITTED TO (PIP) AND HAS CUT OFF THREE FINGERS
 6 AT (PIP) AND A PARTIAL FINGER WAS AMPUTATED AFTER PLAINTIFF TRIED CUTTING IT OFF AT (PIP). IT'S NOT PLAINTIFF'S FAULT
 7 THAT HE'S MENTALLY ILL AND DOES NOT KNOW LAW. UNDER THE EQUAL PROTECTION OF LAW PLAINTIFF NEEDS PRO SE FORMS TO
 8 APPEAL SUMMARY JUDGEMENT.

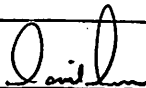
9
 10 PLAINTIFF TOLD THE COURT HE WANTS APPELLATE REVIEW, LINE 6-8 PG. 2, PL.'S ECF No. 187. PL. WROTE THE COURT CLERK ON
 11 OCT. 10, 2022 REQUESTING PRO SE FORMS FOR 9th CIRCUIT APPELLATE REVIEW OF SUMMARY JUDGEMENT IN ECF No. 75 AND 183,
 12 SEE EX. A-002; A-003. "THE COURT HELD THAT, THE DISTRICT COURT COULD CONSIDER UNSWORN, INADMISSIBLE STATEMENTS
 13 WRITTEN BY THE PLAINTIFF IN A DIARY ABOUT HER DIABETES SYMPTOMS TO SUPPORT HER CLAIMS", FRASER V. GOODALE, 342 F. 3d.
 14 1032, 1036-37 (9th CIR. 2003). THE COURT CLERK DID NOT RESPOND OR PROVIDE THE FORMS. NOW, APPEAL FORMS ARE DENIED,
 15 ECF No. 190, EX. A-001 BUT THE COURT HAS INSTRUCTED PLAINTIFF TO FILE A NOTICE OF APPEAL WITHOUT PROVIDING NOTICE OF
 16 APPEAL FORMS.

17 CONCLUSION

18 THE FORMS TO APPEAL SUMMARY JUDGEMENT WERE DENIED WHICH IS BEYOND PLAINTIFF'S CONTROL BUT PER THE COURT'S
 19 JAN. 13, 2023 DIRECTIVE PL. SUBMITS A MOT. AND MOT. OF NOTICE OF APPEAL TO APPEAL SUMMARY JUDGEMENT IN ECF
 20 No. 75, 183, AND ALL OBJECTIONS BY PL. OR NOTICE OF APPEAL FORMS TO APPEAL SUMMARY JUDGEMENT IN ECF
 21 No. 75, 183, AND ALL OBJECTIONS BY PL. SINCE FILING THIS CASE.

22 VERIFICATION

23 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. IF CALLED UPON TO DO, I CAN TESTIFY
 24 TO THESE MATTERS. THIS DECLARATION WAS EXECUTED ON THE 18th DAY OF JANUARY 2023 AT STOCKTON CALIFORNIA.

25
 26 

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL VERDUZCO,

Plaintiff,

v.

MICKEY PRICE, et al.,

Defendants.

Case No. 19-cv-01440-JSW

**ORDER DENYING MOTION FOR PRO
SE APPEAL FORMS**

Re: Dkt. No. 189

Plaintiff has filed a "motion" for "pro se forms to appeal." (ECF No. 189.) The Court is not aware of any pro se appeal forms. The motion is DENIED. Plaintiff may appeal the judgment by filing a notice of appeal in accordance with the Federal Rules of Appellate Procedure. *See, e.g.,* Fed. R. App. P. 3, 4.

IT IS SO ORDERED.

Dated: January 13, 2023

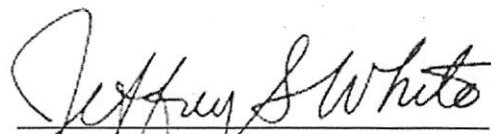

JEFFREY S. WHITE
United States District Judge

EXHIBIT A-001

1:1

October 08, 2022 (Saturday) After 1:1 With Psychiatrist & Told C/o A. Ege, J. Love, And P. Rumbaut That I Want To Speak To A Lieutenant Regarding R. Sinner Withheld By SRN 11 H. Cole.

Call Front With SRN October 08, 2022 (Saturday) Informed SRN 11 That R.N.'s Are Not Complying With Order.

Phone

October 08, 2022 (Saturday) Called Anna My Love.

Det. Aznar

October 08, 2022 (Saturday) Det. Aznar And (2) Det.'s Interviewed Me Inside My Room At 8:25 p.m. Regarding Sgt. R. Sinner.

1:1 Call Front

October 09, 2022 (Sunday) Had Call Front With R.N. A. Melbe Regarding Sgt. R. Sinner Asked Her To E-Mail Lieutenant At 7:55 a.m.

"LT"

October 09, 2022 (Sunday) Lieutenant R. Randall Had In Cell Interview With Me. C/o A. Ege Present Regarding Inad Mail Being Rejected By Mailroom D. Potts 11:00 a.m.

Phone

October 09, 2022 Called Anna My Love.

Det. J. Pottre

October 10, 2022 (Monday) Det. J. Pottre Approached Call Front At 9:35 a.m. Telling Me He Will Call Mailroom Regarding Interfering With My "Legal Mail" & Thanks Me.

Phone

October 10, 2022 (Monday) Called Anna My Love.

Call Front

October 10, 2022 (Monday) C/o Garcia-Romero Told Me Pottre Is Still Working On It. 1:40 p.m.

Court Clerk

October 10, 2022 (Monday) White Court Clerk And Told Her I would Pre Se Appeals Forms Because I Want To Appeal Summary Judgment In Btf. No. 75 And 183 To 9th Cir. Btf 75 Appeal Forms And Btf 183 Forms, Told Her Want To Appeal.

BA-22 to C. Davis October 10, 2022 (Monday) Sent BA-22 Team to Unknown Supervisor McKim C Davis Why to Unknown Staff Member Reflecting Confidential Correspondence to Inmate Appeals. Told Davis to Reply.

Mom October 10, 2022 (Monday) Wrote Mom to Thank Her For Package.

Refused Assessment October 10, 2022 (Monday) Refused Nursing Assessment.

Call Front October 10, 2022 (Monday) Had Call Front With SRO J. Chang Complaining About RAC Not Coming In to Cut Off Fingers.

Refused Assessment October 10, 2022 (Monday) Refused Assessment, Alarm Activated. Lt. W. Lora, Sgt. A. Ramos, Correlline Responded. Sgt. Correlline Told Staff That This Does Not Constitute As An Emergency. Told Staff Not To Activate Alarm.

Inmate Appeal October 10, 2022 (Monday) Resubmitted Staff Complaint Dated October 05, 2022 to Inmate Appeals Mt (PRSP). Twice Mail Room Staff Refused to Process My "Inmate Mail" And Returned it to Harman Mc. Processed by C. J. Hendricks At Correll Station At 7:35 P.M.

Inmate Appeal October 10, 2022 (Monday) Resubmitted Staff Complaint Dated October 05, 2022 to Inmate Appeals Mt (CHOF). Twice Mail Room Staff Refused to Process My "Inmate Mail" And Returned it to Harman Mc. Processed by C. J. Hendricks At Correll Station At 7:35 P.M.

Assignment Notice October 10, 2022 (Monday) Inmate Assignment Notice No # 313456.

Sgt. Rustie October 11, 2022 (Tuesday) Rustie Announced Call Front At 9:15 am. Still Calling Mailroom.

Phone October 11, 2022 (Tuesday) Called Home My Love. Sent B. Mail to Son Stanton Inmate's Room

EX-A-003

PROOF OF SERVICE BY MAIL
[CCP §§ 1013(a), 2015.5]

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN

I am a citizen of the County of SAN JOAQUIN, State of California. I am a citizen of the United States of America. I am over the age of eighteen (18) and ~~not~~ a party to this action. I am a resident of the County of San Joaquin, CDCR# T-45537.

My address is: DANIEL VERDUZCO, # T-45537

California Health Care Facility

P.O. BOX 32110

Stockton, CA 95213

On JANUARY 18, 2023, I served via United States Mail a copy of the following document(s): MOT. AND NOTICE OF MOT. TO APPEAL PER THE COURTS JAN. 13, 2023 ORDER. PL. WAS DENIED SUMMARY JUDGEMENT APPEAL FORMS BUT WAS DIRECTED TO FILE NOTICE OF APPEAL ECF. 190. PL. IS MENTALLY ILL AND NEEDS HELP PLEASE. THIS NOTICE OF APPEAL IS PER THE COURTS ORDER IN ECF No. 190, JANUARY 13, 2023.

The above-noted legal document(s) was placed in a sealed envelope, with postage thereon fully prepaid, addressed to the person at the address indicated below pursuant to California Code of Civil Procedure Section 1013. I placed the envelope or package in a mailbox or other like facility addressed to:

OFFICE OF THE CLERK, U.S. DISTRICT COURT
1301 CLAY STREET, SUITE 400S
OAKLAND, CA. 94612

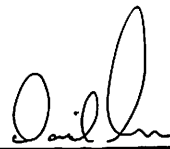
WILLIAM P. BURANICH, DAG
455 GOLDEN GATE AVE, STE 1100
SAN FRANCISCO, CA. 94102

HANNAH E. BUSH
290 ARDMOOR DRIVE
CLARKSVILLE TN. 37043

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. This document was executed on JANUARY 18, 2023 in San Joaquin County, California.

DANIEL VERDUZCO

Type or Print Name



Signature